

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BETTY ANNE WATERS as
Administratrix of the Estate of
KENNETH WATERS,
Plaintiff,
vs.

TOWN OF AYER,
NANCY TAYLOR-HARRIS,
ARTHUR BOISSEAU,
BUDDY DECOT,
WILLIAM ADAMSON,
JOHN AND JANE DOES 1-16.

Defendants.

CIVIL ACTION
NO. 04-10521-GAO

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR
DISCLOSURE OF NATIONAL CRIME INFORMATION CENTER RECORDS**

Plaintiff Betty Anne Waters, by counsel, hereby responds to Defendants' Motion for Disclosure of National Crime Information Center Records. For the reasons set forth below, the Defendants' motion should be denied.

Discovery closed on May 18, 2007. Therefore, Defendants' motion, which seeks the production of documents outside of the time period for discovery established by this Court, should be denied. The Defendants have had two years to request an order from this Court requiring the Criminal Justice Information Services Division to produce documents within the discovery deadline and should not be allowed to belatedly discover these documents now that discovery has closed.

Moreover, even if the Defendants' motion were timely, it should be denied because it seeks information that is neither relevant to the claims at issue in this case nor admissible at trial.

Specifically, Defendants seek Kenneth Waters' criminal conviction records suggesting that these documents will be used for trial witness impeachment purposes. Any documents concerning the conviction of Mr. Waters for crimes that are not related to Brow murder are irrelevant and are inadmissible character and/or propensity evidence under the Federal Rules of Evidence. By merely stating that these documents will be used for universal impeachment purposes, Defendants have not met their burden of establishing that these documents are likely to lead to the discovery of admissible evidence.

CONCLUSION

For the foregoing reasons, the Court should deny Defendants' Motion for Disclosure of National Crime Information Center Records.

Dated: May 21, 2007

Respectfully submitted,

BETTY ANNE WATERS,
By her attorneys

/s/ Robert N. Feldman
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CERTIFICATE OF SERVICE

I, Robert N. Feldman, hereby certify that the foregoing document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 21, 2007.

/s/ Robert N. Feldman

Robert N. Feldman